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HELP SHEETS AND LEAFLETS

Help Sheets and leaflets giving more detailed information about particular tax rules are available from the Orderline. There is one for trusts.

- *IR270: Trusts and settlements - income treated as the settlor's*

Filling in the Trusts etc. Pages

Fill in the Trusts etc. Pages if you received any income in 2000-2001 from a trust, settlement or the estate of a deceased person. These Notes tell you what to do.

Gather together the material you need, such as statements of amounts paid from the estate of a deceased person (prepared by the personal representative).

Income from trusts and settlements

■ Beneficiaries

boxes 7.1 to 7.12 If you are the beneficiary of a bare trust, that is one where you have an absolute right to the income and capital from the trust or settlement, do not include this income on the Trusts etc. Pages. This income is treated as belonging to you and not to the trustees, and should be included in the pages of your Tax Return that deal with the type of income concerned.

If you had an absolute right to income but not capital from a trust or settlement:

- do not enter any scrip dividends. These should be included in boxes 10.21 to 10.23 on page 3 of your Tax Return
- do not enter income from foreign sources. This should be included on the Foreign Pages if you are resident in the UK
- exclude any trust income that you received gross, such as income from property. This income should be included in the pages of your Tax Return dealing with that particular source of income
- enter in boxes 7.4 to 7.6 income on which tax has been paid at the basic (22%) rate. Enter in box 7.4 the actual income to which you are entitled, in box 7.5 the Income Tax deducted, and in box 7.6 the income before tax (the 'taxable amount')
- enter in boxes 7.7 to 7.9 income from which tax has been deducted, or which has a tax credit, at the lower (20%) rate. Enter in box 7.7 the actual income to which you are entitled, in box 7.8 the Income Tax deducted or the tax credit and in box 7.9 the income before tax (the 'taxable amount')
- enter in boxes 7.10 to 7.12 income which has a tax credit at the dividend (10%) rate. Enter in box 7.10 the actual income to which you are entitled, in box 7.11 the tax credit, and in box 7.12 the income before tax (the 'taxable amount').

The trustee will be able to tell you which types of income have been received on your behalf.

If you did not have an absolute right to income from a trust or settlement and the trustees **are resident** in the UK for tax purposes, enter in box 7.1 the actual income you received, in box 7.2 the Income Tax deducted and in box 7.3 the income before tax. You can get these figures from the tax voucher provided by the trustees. If you wish to claim relief under Extra Statutory Concession B18, contact:

Centre for Non-Residents (Non-resident Trusts)
St John's House
Merton Road
Bootle, Merseyside,
England
L69 9BB.
Telephone 0151 472 6000

If you did not have an absolute right to income from a trust or settlement, and the trustees **are not resident** in the UK for Income Tax purposes, no entry should be made on the Trusts etc. Pages. Instead, fill in the Foreign Pages. The exception to this is if you wish to claim relief under Extra Statutory Concession B18. In this case contact the Financial Intermediaries and Claims Office (FICO) at the address in the preceding paragraph.

■ Settlors

boxes 7.1 to 7.12 A settlement includes a trust, covenant, disposition, arrangement or transfer of assets. If you have directly or indirectly provided funds for a settlement, its income may be treated as yours for tax purposes. This may apply if:

- you or your spouse can benefit immediately or in the future from the capital or income of the settlement, **or**
- capital or income of the settlement is paid to, or for the benefit of, your unmarried child or stepchild while that child is under the age of 18, **or**
- the settlement is a covenant for payments to charity (this covenant must not be for longer than three years), **or**
- you or your spouse have received a loan or repayment of a loan from the trustees of the settlement.

If you think one of these situations may apply to you, please ask the Orderline for *Help Sheet IR270: Trusts and settlements - income treated as the settlor's.*

How you include the income on your Tax Return depends on whether or not the trust document gives you an absolute entitlement to the income of the trust. If it does, then only the Trust Management Expenses deducted in arriving at your income have to be deemed to be yours - all the other income is already yours. If it does not, then all the income has to be deemed to be yours.

If the trust document does give you an absolute entitlement to the income (but not capital) of the trust, then follow the instructions for boxes 7.1 to 7.12 under the heading 'Beneficiaries' on page TN1. In addition, you will need to make an entry in boxes 13.1 to 13.3 on page 4 of your Tax Return. The guidance on *Help Sheet IR270* tells you how to calculate the entries for these boxes.

If the trust document does not give you an absolute entitlement to the income, enter the actual income without deducting the Trust Management Expenses. Enter in boxes 7.10 to 7.12 income which has a tax credit at the dividend (10%) rate. Enter in box 7.10 the actual income, in box 7.11 the tax credit, and in box 7.12 the income before tax (the 'taxable amount'). Enter in boxes 7.4 to 7.6 all other income. Enter in box 7.4 the actual income, in box 7.5 the Income Tax deducted, and in box 7.6 the income before tax (the 'taxable amount').

Income from estates of deceased persons

Definitions

In the notes that follow we use some words and phrases that have special meanings:

Personal representative - a person who has been appointed as either the executor or the administrator of the estate of a deceased person

Estate - the money and other assets of the person who has died

Legacy - either a specified sum of money or a particular asset that is left to a specific person under the terms of a will

Residue - that part of the estate that is left after debts, expenses, taxes and legacies have been paid out

Residuary beneficiary - person entitled to the whole or part of the residue of the estate

Period of administration - the period running from the day following the date of death until the date on which the estate is ready for distribution to the residuary beneficiaries.

Legacies

If what you were entitled to from an estate was a legacy consisting of a fixed sum of money or a specific asset you do not pay tax on it and there is no need to fill in boxes 7.13 to 7.31 of the Trusts etc Pages.

If your legacy was paid with interest - perhaps because there was a delay in paying it to you - you should include the interest in box 10.14 on page 3 of your Tax Return.

Scottish Legal Rights Claimants

If you claimed your legal rights in a Scottish estate, your claim will normally be paid with interest. That interest should be included in box 10.14 on page 3 of your Return.

If your legacy consisted of an asset which produces income you should enter the income in the boxes on the return for that type of income (and not on the Trusts etc Pages). For instance, if your legacy consisted of a shareholding in a company and that company paid a dividend you should enter the dividend income in boxes 10.15 to 10.26 on page 3 of your Return. If your legacy consisted of a property and you receive rents from the letting of that property you should answer Question 5 on page 2 on your Return and complete the Land and Property Pages, as appropriate.

Residuary Beneficiaries

If you are entitled to the whole or part of the residue of the estate, you should answer the following two questions. (If you are the residuary beneficiary of two or more estates, answer these questions separately for each estate.)

1. Did you receive anything (income, capital or assets) from the estate in the year ended 5 April 2001? **Yes** **No**

2. Was the period of administration completed in the year ended 5 April 2001? **Yes** **No**

If you are not certain about the answer to 2, ask the personal representative or the solicitor acting for the personal representative.

If you answer 'No' to both questions you should answer 'No' to Question 7 on page 2 of your Tax Return. There is no need to fill in the Trusts etc Pages boxes 7.13 to 7.31. (But if you received income from a trust or settlement in the year to 5 April 2001 you should answer 'Yes' to Question 7 and follow the instructions for boxes 7.1 to 7.12 on page TN1.)

If you answer Yes to either question:

- ask the personal representative for a tax certificate on form R185 (Estate Income)
- enter in boxes 7.13 to 7.31 the income and tax shown on the R185 (Estate Income)
- enter the name of the estate in the 'Additional information' box, box 7.32 on page T2.

Problems

The personal representatives may tell you that they know nothing about form R185 (Estate Income).

If the estate was a very small one and it was wound up very quickly, the personal representative may not have received any income during the period of administration. If this was so then you do not need form R185 (Estate Income).

If the personal representatives did receive income during the period of administration, they should have paid tax on that income and should have divided the income between the residuary beneficiaries. The notes for boxes 7.13 to 7.30 tell you how to include your share on the Trusts etc Pages, using the R185 (Estate Income) they should supply.

If the personal representatives need more information about this before issuing a form R185 (Estate Income) they (or the solicitor or other professional adviser acting for the estate) can get advice by calling a special Helpline on 0131 777 4030. This Helpline service is available between the following hours:

08.30 to 17.00	Monday to Thursday
08.30 to 16.30	Friday.

Limited interests

If you are entitled to receive from the estate income only (for example, if you are a life tenant or in a Scottish estate, a liferenter) you have what is called a 'limited interest in residue'.

Unless the administration was completed in that year, the amount which you actually received in 2000-2001 is treated as your income for that year. If the administration of the estate was completed in 2000-2001, all of the income due to you which has not already been treated as your income in earlier years, is your income for that year. You should follow the advice given on page TN3 under the heading 'boxes 7.13 to 7.30'.

• Absolute interests

If you are entitled to receive both the income and the capital of the residue or a share in the residue, you have what is called an 'absolute interest in residue'. If you have an absolute interest you are treated as receiving income from the estate in certain circumstances. Your share of estate income is calculated by deducting expenses chargeable to income from the income received by the personal representatives. If you received a payment or payments from the estate in 2000-2001, your income for that year will be either the amount of the payments you received or the income attributable to you for all the years (if not already treated as your income for earlier years) whichever is the lower amount. If the administration of the estate ended in 2000-2001 you will be treated as receiving both the income of that year and any estate income which has not already been treated as your income for earlier years.

Income that accrued during the lifetime of the deceased person but which was paid after their death, may have been taken into account both as part of the estate for Inheritance Tax purposes and as estate income for Income Tax purposes. If this happened in the estate from which you are treated as receiving income, and you are liable to tax at the higher rate, there is a special tax relief which may help you. It has the effect of reducing the amount of income which you are treated as receiving from the estate. If the personal representatives have supplied you with a statement which refers to 'Section 699 relief' use those amounts when completing your Tax Return. Otherwise, if you think this might apply to you, contact your Inland Revenue office or your tax adviser.

• Discretionary interests

If you are entitled to income from the residue of an estate only because the personal representatives exercised a discretion in your favour, you should have been supplied with a statement of income which should be entered on your Tax Return.

• Successive interests

If the residuary beneficiary dies during the administration of an estate or if the terms of a will (or of the rules of intestacy) are varied with the consent of the original beneficiary, special rules apply. The original beneficiaries are taxed on any income actually paid to them. New beneficiaries are treated as if they had been residuary beneficiaries from the outset - subject to a deduction for amounts paid to the original beneficiaries and treated as their income. This ensures that each beneficiary is taxed on the share of the estate income that is actually paid to them.

boxes 7.13 to 7.30 If you are treated as receiving income from an estate, you should have received a statement on form R185 (Estate Income) from the personal representatives. Starting with the figures on that statement, enter the net amount of:

- income taxed at the basic rate in box 7.13
- income taxed at the lower rate in box 7.16
- income taxed at the dividend rate (or described as Schedule F ordinary rate) where the tax is repayable, in box 7.19
- income taxed at the basic rate where the tax is not repayable in box 7.22
- income taxed at the lower rate where the tax is not repayable, in box 7.25
- income taxed at the dividend rate (or described as Schedule F ordinary rate) where the tax is not repayable in box 7.28.

Enter the amounts of tax shown on the statement in:

- box 7.14 for basic rate tax
- box 7.17 for lower rate tax
- box 7.20 for repayable dividend rate tax
- box 7.23 for non repayable basic rate tax
- box 7.26 for non repayable lower rate tax
- box 7.29 for non repayable dividend rate tax.

Enter in boxes 7.15, 7.18, 7.21, 7.24, 7.27 and 7.30 the taxable amounts, that is, the net amounts plus the tax.

• Foreign estates

A foreign estate is one where the income of the estate has not borne full UK tax because the personal representatives are not resident and not ordinarily resident in the UK or because the deceased person died domiciled outside the UK and overseas income arose to the estate. If you have received income from such an estate, you should enter the whole amount both in box 7.13 **and** in box 7.15. No entry should be made in box 7.14 for tax deducted. However if the foreign estate has been charged to UK Income Tax, the amount of income entered in both boxes 7.13 and 7.15 will need to be reduced proportionately by the following amount:

$$\frac{\text{net amount of income that has borne UK tax}}{\text{total estate income less UK tax}} \times \text{total estate income before UK tax}$$

You should subtract the above amount from the figure to be entered in boxes 7.13 and 7.15.

• Foreign tax paid

box 7.31 **If you have received income that is chargeable to UK tax but which has also been taxed in a foreign country, you may be entitled to claim credit for the foreign tax paid in calculating your UK tax liability. This is known as 'tax credit relief'.**

Tax credit relief will usually be beneficial, but if you do **not** want to claim it you can deduct the foreign tax paid on your income instead. **But you cannot claim tax credit relief and a deduction for the same item of income.**

Enter in box 7.31 the total foreign tax paid for which you are **not** claiming tax credit relief.

If you **want** to claim tax credit relief, fill in the Foreign Pages, and leave box 7.31 blank.

These notes are for guidance only, and reflect the position at the time of writing. They do not affect any rights of appeal.